

IN THE DISTRICT COURT OF THE UNITED STATES
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

COMES NOW THE UNITED STATES OF AMERICA, by and through its Assistant United States Attorney Peter T. Phillips, respectfully moving this honorable Court to require the defendant(s) to produce a witness list to the prosecution prior to jury selection, pursuant to Federal Rules of Criminal Procedure, Rules 2 and 16, in the interests of justice and fairness.

In this case, full and complete discovery has been tendered over to the defendant(s), or is available for his review. The Government has filed a motion for reciprocal discovery, and will make available a potential witness and exhibit list prior to trial. Federal Rules of Criminal Procedure, Rule 2, provides that the Rules are to be construed so as to secure fairness and Rule 16 grants a trial court authority to regulate discovery. Thus, it is proper for a court to require parties to disclose witnesses, each to the other side. See United States v. Anderson, 481 F.2d 685 (4th Cir. 1973); United States v. Jordan, 466 F.2d 1972, cert. denied 409 U.S. 1129 (1973).

The Fourth Circuit has recently held that "the ordered production of witnesses neither violated the defendant's constitutional rights nor constituted an abuse of discretion." United States v. Fletcher, 74 F.3d 49, 54 (4th Cir. 1996). Moreover, there is no requirement that there be prior defense motion for the prosecution's witnesses. However, in this case, the defendant(s) did request such a list, which has been provided him.

Therefore, for the foregoing reasons, the Government respectfully moves this Court to order the defendant(s) to provide a list of witnesses he intends to call during his case in chief.

Respectfully Submitted,

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